



Crim. Con.

A FULL, FAITHFUL, & IMPARTIAL
REPORT

OF THAT CURIOUS EXTRAORDINARY AND INTERESTING

TRIAL,

With Speeches of Counsel and Judge's Charge,

IN THE CASE WHEREIN

MARK BROWNE, ESQ.

Was Plaintiff,

AND

MARTIN JOSEPH BLAKE, ESQ.

Defendant,

IN AN ACTION OF DAMAGES FOR

CRIM. CON. with the Plaintiff's Wife,

Tried in the Court of Common Pleas, Dublin,

On the 9th and 10th. Days of July, 1817,

BEFORE

THE RIGHT HONORABLE LORD NORBURY,

AND A SPECIAL JURY OF THE CITY OF DUBLIN.

Damages laid at £30,000.

DUBLIN:

PRINTED BY J. CHARLES, 57, MARY-STREET.

1817.

Crim. Con.

WILLIAM L. GAY

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TRIAL FOR CRIM. CON.

PROCEEDINGS.



Counsel for the Plaintiff.

MESSRS. GOOLD,
O'CONNELL,
LYNCH,
PHILLIPS,
EVERARD,
WALSH,

AGENT—ROBERT POWER, GENT.

Counsel for the Defendant.

SERJEANT JOY,
MESSRS. GRADY,
BURTON,
VANDELEUR,
WALLACE,
CRAMPTON,
NORTH,

AGENT—JOHN GALWAY, GENT.

Wednesday, July 9th, 1817.

The following Special Jury were sworn :

GEORGE THOMPSON, ESQ. FOREMAN,

WILLIAM PEPPER,
JOHN GEORGE,
GEORGE CARLETON,
HUMPHRY MINCHIN,
EDWARD CLIBBORN,
JOHN MADDER

JOHN O'NEIL,
WILLIAM SNELL MAGEE,
WILLIAM ALEX. SHAW,
JOHN ORR,
ROBT. HINDMAN, ESQRS

THE following Declaration was filed in the proper office of his Majesty's Court of Common Pleas, in Ireland :

County of the City } As of Easter Term, 1817.
of Dublin to wit. } MARTIN JOSEPH BLAKE was attached to answer MARK BROWNE of a Plea of Trespass, and therefore the said Mark Browne, by Robert Power, his attorney, complains against the said Martin Joseph Blake, for that the said Martin Joseph Blake, on the 28th day of January last, in the year of our Lord 1817, and on divers other days and times between that day and the commencement of this Suit, with force and arms assaulted and ill treated Theresa Maria Browne, then and still being the wife of the said Mark Browne, to wit, at Dublin aforesaid, in the County of the City of Dublin, debauched and carnally knew her, whereby the said Mark Browne, for a long space of time, from the day above-mentioned, hitherto hath wholly lost and been deprived of the comfort, fellowship, and assistance of his said wife in his domestic affairs, &c. &c. to which the Defendant pleads the general issue, Not Guilty.

Mr. WALSH, as Junior Counsel, opened the Pleadings, stating, that in this case Mark Browne, Esq. of Rockfield, in the county of Galway, is Plaintiff, and Martin Joseph Blake, Esq. of Brook Lodge in said county, is Defendant. This is an Action of Trespass, brought by the Plaintiff against the Defendant, for criminal conversation with the Plaintiff's wife, on the 28th day of January, 1817.

The Damages are laid at 30,000*l.* to which the Defendant has pleaded the general issue.

Mr. PHILLIPS stated the Case in that luminous style, which precludes imitation. The unusual confusion in a Court immensely crowded, and the limits to which we are confined, from price, time, and a variety of concurring circumstances, we hope will apologize to our numerous friends, whose wishes it will be always our ambition to anticipate, for this outline of his splendid observations.

This fine sample of perfect elocution, commenced with deploring the decadence of the National Character and the infection introduced into an Irish Soil, being thought impervious to the fashionable, licentious, and criminal habits of our Neighbours on the Continent, and the audacity which marked scenes of Vice under the gentle appellation of gallantry, while our Females became proverbial through Europe for that edifying demeanour that emanates from the heart, and that perfection of honour and virtue, that has long been recognized as one of the peculiar characteristics of a generous Nation deriving its peculiar fame from the immaculate Chastity and unerring decorum of our fair Countrywomen: but it would seem from the horrible tale it became his duty to unfold, as if the manners and habits which heretofore had constituted a nations pride, had been at once subverted and that an act but apparently of domestic or individual nature ever disdained to mark an Issue of natural calamity, and in its consequences to visit society; throughout all its orders, from the highest to its lowest state, exhibiting scenes of iniquity, aggravated beyond all precedent in this Country, and blazoning acts of adultery and prostitution which call at the Bar of Public Justice, while imploring pity and protection against the influence of a wide spreading evil, and demanding with heart-rending regret a restoration to that state which characterized our Country for centuries back. But while vaunting on the high ground of matchless excellence as this Kingdom was; how humble and abashed must we now seem after violated reputation, resulting from scenes of profligacy, criminality and ingratitude, which startles the imagination while it freezes the heart. To this barbarous degree of civilization are we it seems at length reduced through the importation, not merely of continental fopperies, but of an accumulated load of foreign vices, enormous as they are hideous, repulsive as they are base. What parent can hereafter rejoice in the purity and moral perfection of his offspring, what child destined to the orphanage that springs from prostitution, can rear its head in society, with the liberty or the confidence, inseparable from the untainted character of its ancestry, while pestifential horror, at the unhallowed violation of all laws human and divine, and the inexpressible fatality

attending the life and actions of an adulterer, cannot be palliated, or cause its matchless misfortunes to be softened by the frequency of the crime, or the light fashionable address with which it appears to have been of late so boldly perpetrated.

The Plaintiff was represented as a Gentleman of respectable family and fortune, residing in the County of Galway, his Wife the unhappy Author of a series of domestic calamities, once beautiful innocent amiable and accomplished, the joy, the pride, the felicity of her parents and friends; one where to look on was to love;—the Idol of a fond Husband, who to gratify her, ransacked almost every mart that Vanity itself could sustain, for objects of her gratification.

She was then in the very spring of life, and never did the Sun of Heaven unfold a lovelier blossom—her look was beauty and her breath was fragrance—the eye that saw her caught a lustre from the vision; and all the virtues seemed to linger round her, like so many spotless spirits enamoured of her loveliness.

*“ Yes she was good as she was fair,
None, none on earth above her,
As pure in thought as Angels are,
To see her, was to love her,”*

What year of tongueless transport might not her happy husband have anticipated! What one addition could her beauties gain to render them all perfect! In the connubial rapture there was only one and she was blessed with it. A lovely family of infant children gave her the consecrated name of mother, and with it all that heaven can give of interest to this world's worthlessness.

Heaven blessed them with a rising offspring, equally dear to both, and for a time they might be truly said to exist only in and for each other. Such was their perfection of happiness, and such the enviable lot they maintained, while solacing each other in the fondest endearments of conjugal fidelity, and the blissful Scenes of reciprocal and innocent delight.

Mr. Browne after a few years of enjoyment in the independance of Wealth, at length became embarrassed through a series of mischances;—one of the great objects which promoted his domestic felicity, for a time,

was, the friendship and apparent fidelity of the Defendant; who for the full purpose of planting a Dagger in a breast devoted to him, in all the ardour of friendship and sincerity, the Defendant became his adviser in difficulties, only the more palpably to deceive him:—tendered his Purse in cases of emergency, from the same diabolical motive, became his friend in an affair of Honor, in short, while an inmate at the Plaintiff's House, which he frequently was, an implicit confidence was the least return, which his client thought due, for the most plausible species of deception, practised with a persevering and bold species of success, that lulled credulity into sleep, and bore with it all the marks of sacred and unerring Virtue.

This happiness however was not destined to last long, and the perfidy of his friend was succeeded by the excruciating torture of finding himself abandoned by his wife. This lady, all beautiful and accomplished, was selected for Mr. Browne by his father, who, in the year 1809, left him in possession of an ample fortune, and a wife, the daughter of an old and favoured friend.

Miss. Blake, of Oran Castle, whose beauty and innocence were commensurate; She was good as shewas fair, and in the consecrated name of mother, she testified her correct sense of those important and impervious duties; which emblazoned virtues had raised the owner on the high pinnacle of love, honor, and universal respect. Can the mind imagine any thing more delightful, thus loving and beloved? While year after year an encrease of felicity became an harbinger of the most sad and melancholy events that imagination could picture to itself, or reality establish on the basis of facts, but too glaring for contradiction, being marked characteristics of horror and duplicity, which set description at defiance, and equally challenge past times and contemporaries for any thing parallel to them. His friend, the companion of his days and his evenings' guest, his bosom's confidant, the repository of his secrets, the brother and co-partner of all his sympathetic affections, betrayed him! embittering his

future life, and dashing, by one fell blow, the cup of felicity from lips that previously had become habituated to it; and felt distress and disappointment in all that poignancy that might well be expected from a contrast so glaringly miserable and so truly acute.

Mr. Browne was bred to no profession, and he was ignorant of every agricultural view that have so recently engaged the attention of princes, peers, and legislators.

On the 27th day of January last, it would appear in proof, he was instructed to say, that one of the domestics of his client, Mr. Browne, at Rockfield, the place of his residence, Mary Hind, had received directions respecting the sudden illness of Mrs. Browne, to attend her closely, and mark any change in her complaint that medical aid might be sent for. The family were in great confusion, and every mind agitated at the exposure of a scene fraught with horror, to the astonished and heart-struck husband, at the unexpected developement of a friend's perfidy, and the pollution of a wife whom he had so recently adored. She was discovered by this domestic coming out of the room of the defendant Blake, in her night attire—a bed-gown and short wrapper reaching only to her middle, and covering merely her chemise; while Mr. Blake, in visible perturbation of mind, was detected in his shirt and night-cap at the door of his apartment, much about the same time. It were fruitless to attempt painting the feelings of his forlorn and miserable client, at this sad discovery; all that the heart can conceive, or the tongue utter, must fall short of the real state of unexampled sufferings, while he was obliged to contemplate this barbarous seducer of his wife's innocence, under the unheard of deception of sending his own unmarried sister on a visit to this house, which he had predestined to irredeemable destruction. It might well be imagined, that such series of crimes was scarce capable of higher aggravation; but what must be the cold-blooded calculation of this perfidious and unfeeling friend, when finding himself detected, he would fain compromise with his afflicted client in the way of pecuniary compensation, exclaiming, Browne owes me some money, and we may silence him in that way. Can any thing be imagined

more abominable than such a suggestion? and one at which even depravity itself would spurn at lest the proposal could meet with nothing but super-added indignation in the breast of his client. He should recur to the presumptive evidence of this once amiable young woman, despoiled for ever of white-robed innocence by the perfidy of a man who thus would add the most galling insult to the most barbarous and wanton outrage of his peace, and the irrecoverable loss of that tranquility which was used to make his home a heaven to him. None but *inferential* evidence of the defendant's guilt would they produce. They could not be so cruel, though the precedent of unheard of cruelty sprung from this hellish plot, as to make the lady's brother her accuser of the circumstances and facts could authorise them, if that pity, which was not shewn to them, did not preserve its seat in the injured husband's breast, and cause his feelings, not blunted by injuries, or exerted to wanton revenge, to array themselves in the softer sensibilities of a dismal and care-worn heart, rather than bring a brother as the public accuser of a sister once deservedly dear to him, once an honor to his family, being, as she recently was, a conspicuous and lovely ornament to that rank in society to which, by her birth, she belonged; and from which, by a train of secret and abominable machinations, she was, in a malignant moment, for ever banished. He would advert to the circumstances which would appear an irrefragable proof, if he could rely on the instructions with which he was furnished:—that of the Lady's appearing, at a suspicious hour, not half attired—in fact, limited, in one instance, to her linen, at another time to her accustomed bed-dress; when conscious guilt gave the expressions of hurry, confusion, and dismay to that countenance in which the Loves and Graces, decked in the pure but splendid foliage of connubial affection and connubial innocence were wont to disport themselves.

Thus reduced to the afflicting contrast of what she was, the tortured husband, maddened to desperation, must have his ears assailed and his mind lacerated beyond even the most direful effects of imperious cruelty, by an appeal to his avarice to compromise for his dishonor. The man who, under all the inconceivable disasters, he so deliberately inflicted, through the seducing garb of friendship,

must become an adept by intuition, in a species of abominable turpitude, at which he could not possibly arrive through any gradation of long practice.

To fill the system of his villainy and cap the climax of what he trusted would, in the event, turn out his own disgrace by an exemplary Verdict, he would appeal to the Jury on a refinement of the Defendant's hideous politics. It would appear in proof, though the prime materials had been assiduously, as well as artfully destroyed, that this complicated Seducer had interwoven in some Letters, apparently resulting from the pecuniary aid he was affording the Plaintiff, and by his consent addressed to his wife. Such was the active Agent and confidential manager of those untoward transactions to which her husband became subject ; and in the execution of her trust, with also particular, had apparently exercised both with activity and fidelity. These Letters he made the dark and hideous covert of amorous correspondence, through which he gave the peace of his ill-fated friend a vital stab—branded the woman he affected to love with the indelible stigma of a rank adultress, drawn imperceptibly into the abyss of vice by artifices congenial to minds of infernal stamp; and constitutions, hardened and invigorated by desperation and despair, those imps that haunt the forward and the gay, thro' the gaudy affectation of splendid or frivolous ostentation. Is it requisite to repeat or mark by laboured description the horror and recoiling sensations with which guilt so enormous must be accompanied?—No ; Nature stamped on his callous mind the original effigy of depravity not to be equalled—of dark and secret abominations which must have had their origin in the dismal recesses of another world, but not a better one.

Gentlemen whose duty it was to appreciate the facts of this case, with all the aggravating circumstances belonging to it, would doubtless interrogate themselves as husbands, fathers, and reciprocal friends, how they would feel at this cold-blooded proposal of a *compromise*. If this does not aggravate even Guilt, as, in the best, it was beyond all precedent, the word should be blotted from the vocabulary ; the ideas annexed to it erased from the memory, and discharged from human feelings. He was bold to anticipate the consequences of a due consideration

of this particular point, when he contemplated the characters of the Gentlemen he addressed. As Fathers, Brothers, and indignant Husbands, they would rouse all the latent faculties appropriate to each character, and weigh in the balance of justice, of violated honor, friendship profaned, and the blasphemous breach of plighted vows, the cruel overture of pecuniary compensation for this wreck of calamity, in which an innocent but unfortunate man was at once overwhelmed.

Those embarrassments in Mr. Browne's affairs, to which he had previous occasion to allude, involved him in the consequences of a bond ; a judgment on that bond for a considerable sum and subsequent executions. Here the perfidious friend had shewn himself in a material act of his duplicity by the intervention of that pecuniary assistance, which the adverse circumstances of the case had called for. But it were superfluous to repeat his palpable design, or allude to the abominable stratagem he had in view, to worm himself, serpent-like, in the good graces of a woman, among whose virtues, gratitude shone with resplendent lustre. Mrs. Browne was not like the majority of fine women whirling in the vortex of fashion, or dedicating her whole time to a round of frivolous amusements ; she possessed a mind as well as a heart ; and, this fatal instance excepted, she adorned her domestic sphere by the ability of managing her husband's embarrassed affairs, keeping accounts, and interfering with accuracy and precision in his pecuniary dealings : in full possession of each circumstance, from which embarrassments originated ; knowing them to their full extent ; grateful for the aid that afforded but a temporary relief : the subtle enemy in friendship's mask well knew the avenue to her choicest feelings, and that the man who interposed at a critical conjuncture to rescue her husband from the dire consequences of a prison, must, in her contemplation, appear little short of a Supernatural Agent, predestined to carry the balm of consolation on his healing wing.

But it has been suggested, that the Defendant's Counsel mean to plead a justification : he trusted this is one of those innumerable calumnies which spread each day infecting the social atmosphere, while annihilating them-

selves in the absurdity and improbable incidents that gave them birth. But if such be the purpose of the learned Gentlemen, they would try the last expedient against sophistry, of a fair cause against an adulterated mass of plausible but inefficient argument, should argument take its stand as a *foundation* mouldering into premature ruin, from the base materials employed in its composition. What argument could be adduced to extenuate the act of introducing himself under sanction of the society of a spotless Sister, into a house which he had the predetermined malignity to convert into a Brothel.

Gentlemen, with a delicacy peculiar to their case, had began with insulting triumph to advert to a *poor* Plaintiff and a rich Defendant. He hoped no such idea had been broached by the Defendant's Counsel; but if it should have glanced across their minds, by any fatality for their own Cause, he would not scruple to brand the assertion as a calumny against human nature. Little children would lisp their infant indignation against it, and in the tablet of common sense would be found its solemn refutation.

No; notwithstanding the lamentable triumph of vice, and the almost omnipotent influence of Gold in an age of peculiar depravity as all the circumstances of this case have but too amply proved, yet virtue maintains a strong hold in certain breasts unassailable to chicanery, untainted by artifice, while indignant at the imputation of either: virtue as yet was not ripe enough to be immolated at the shrine of pelf, and in the event of this harassing case the proof of which he would anticipate; would terminate in exemplifying, that every thing but gold has *not* lost its lustre, this indeed would be a fatal crisis if such were not a libel, or calumny on the social system of the blackest dye.

Among the domestic blessings of Mr. Browne, were four children, and a son born after the unequivocal discovery of the ill-fated mothers guilt. What compensation could be made for the suspense in a fond parents mind, respecting the legitimacy of this child estranged

in some sort, perhaps from his affections, and labouring amidst the horrors of uncertainty and of doubt. Where he considered the frame of mind, the intelligence the feelings and the characters of the respectable gentlemen whom he addressed, away with the silly cry of a poor Plaintiff, against an opulent Defendant. When he said it was a calumny against human nature even in its most savage state he felt he did not exaggerate. There is in the mind of man a recoiling principle as to certain passions of the human heart, where the illiterate, the uninformed, the base, and the refined think alike, and in whose breasts nature turning into herself scornfully spurns at the artifices of man, and asserts her own dominion amidst myriads of her children, of all countries and climates, of all ranks and situations. In this irrefragable characteristic of human nature, in the abstract contemplation of her power, without seeking adventitious aid from the subtleties of social practice, would he rest his cause and offer it in all the purity of its genuine principles, before the tribunal who are destined to decide on it. He knew he could not offer to husbands friends and fathers the desolated being, who once had a social heart like their own, every fibre straining in a fathers and a husbands fond caresses, to the friend, the wife of his bosom and the offspring of his loins, that heart which once could take in all the latitude of virtuous affections those endearing objects was converted into a cold and callous sepulchre, never more to be solaced or invigorated by the contemplation of an endearing object. Let compensation for incalculable losses be what they may, liberality might in vain enhaunt itself; pity and sympathetic feeling might spin themselves even to impracticable refinement, but as to critical compensation for misfortunes that come not within a financiabile range or within the sphere of numerical calculation, the hope of it is fruitless, though desire might be just.

What compensation can be deemed commensurate to the horrible chaos in the mind, the distracting conflict between affection and suspence: the parents heart strings pulling away, while doubt and despair

stamp in the jaundiced eye of black melancholy, and excruciating torture, the guiltless features of an innocent babe deprived without mortality, of a parent's care or a parents blessing, and consigned to all the dire consequences, perhaps of a solemn and consecrated curse. To talk of compensation in a commensurate degree for calamities which have their origin deeply rooted in the heart, which no healing Balsam can ever approach is a species of visionary extravagance that reality cannot reach, nor a fair principle of truth can ever realize: but all that is practicable, all that can, in the scales of prudence merely human be devised, have perhaps been resorted to, yet how short of what baffles human description must it appear, in comparison, to that awful but splendid ruin, considered with the aid of a little philosophy on which the quality of the crumbling materials exhibit: The magnificence of the quondam structure, and where misfortunes are rendered sacred by the acuteness of the trial, and even the feeble resignation, with which they are borne. Gentlemen are met upon as solemn an occasion as any which ever came perhaps before them. As he previously intimated, it was not the case of an individual they had to try; nay, it was not the case of a particular country, they had the human race to vindicate and determine by their Verdict of this day, to which class their countrymen should properly belong: the merciless savages of foreign and unheard of crimes, or a country only distinguished for the superior virtue of its women, and the heroism of its men; those qualities of the head, heart, and understanding, long recorded as pre-eminent among the nations of the civilized Globe; and the deeper one sinks into the bosom for antiquity, for historical research, or illustration, the more splendid, the more decidedly incontrovertible do the proofs become.

Thus, Gentlemen would see the importance of the Sacred trust committed to them; they would see, feel, hear, and decide, without the intervention of passion to warp them from the rule of rectitude; and though nature should strike at their hearts, and make each chord vibrate in sacred responses to her dictates, still an equitable principle will not become impaired. On the contrary, when as Fathers, Husbands, and Patriots, they

decide, the love of Country however ardent, will lend a glow to the duties of each concomitant character, and Justice will shine amidst the throes of sensibility; while Religion looks down from its immortal and eternal throne in cheering approval of an act which has her immaculate commands to sanction it. Morality will put in her claim for gentlemen's habitual conformity to her: Religion backs the claim, holding out Hope to counteract the stern decrees of eternal punishments; the Patriots' duty shall be fulfilled in the terrors of vigorous and decisive example; the domestic fire-side will cheerfully relumine, though never for his devoted client. Future generations may hail the event of this Cause, as an insurmountable barrier against wide-spreading licentiousness, and as far as the thing is practicable, within the limits of a single, but in its effects a complicated act of multiplied crime and its pernicious consequences; even the physical laws of our nature, by the unhappy Defendant's cruel procedure, will recover their lost energies, and society be once more re-established on its unrivalled basis. Posterity will record the Verdict which promises a restoration of so much felicity.—Mothers will teach their little babes the subject by which to exercise one of the first precepts of morality in the stammering efforts of infant prattle.

Mr. Phillips concluded his Speech in nearly the following words:—

“When the hand that records your verdict shall moulder in the dust—when the tongue that asks that Justice from your hands shall become paralised, then shall your children, and their offspring, reap the benefit of your charity, and your virtues be recorded as the safeguards of your posthumous honors and the boast of your posterity.”

Andrew Browne, first Witness examined by Mr. Gould.

Q. What relation are you to Mr. Mark Browne, the Plaintiff in this Cause?

A. I am his Cousin German

Q. Have you known him long; and have you, or have you not been a familiar inmate at his dwelling?

A. I have known him many years, and been domesticated a good deal at his house.

Q. You have of course known Mrs. Browne, and been able to view and determine on their apparent state of conjugal happiness; did you think them, from your habitual observation, a happy couple, mutually affectionate and endearing, and giving you the idea of domestic felicity?

A. I have not known more harmony or affection between any married people.

Q. Was not Mr. Browne a husband singularly affectionate, if not doatingly fond of an amiable, beautiful, and accomplished young woman?

A. I have always discerned an exemplary degree of conjugal affection from Mr. Browne to his wife, which, in the course of some experience, I have never, to my observation, seen any where exceeded.

Q. Did Mrs. Browne seem susceptible of equal feelings, and did she appear to bear her part in their domestic scenes with apparent felicity?

A. They seemed to be a very fond and affectionate couple; and I had not, from any observation within my experience, any opportunity of discerning felicity more obviously complete.

Q. Proceed, Sir, rather in detail, respecting all you know of these unhappy transactions. Did Mr. Browne invest his wife with authority, or give her discretion in the management of certain pecuniary transactions?

A. I have known Mrs. Browne, with full authority as was generally supposed, from her husband, managing transactions of business for him, such as getting bills negotiated, and using exertions to avert the distressing consequences of sudden and unexpected embarrassments.

Q. Did she appear to act with that unreserved authority that might be expected from a wife having the entire confidence of her husband?

A. Entirely so, as far as I could discern.

Q. What instances have come within your knowledge, sir, from whence you could fairly deduce so strong and determinate an opinion respecting Mr. Browne's confidence in the conduct and domestic economy of his wife, and that general demeanour which secured his affections, to the time about which you probably can guess your evidence becomes essential?

A. I know a particular transaction, which gives me room to suppose, that Mrs. Browne acted as the confidential agent of her husband in pecuniary matters, with

full direction to negotiate bills : She came from their house at Rockfield, in the county of Galway, to Dublin, on the business, as I apprehend, by the desire of, and under authority from her husband, to execute commissions for him, of trust and importance.

Q. What are the particulars of the transaction to which you allude, and give them in detail as correctly as they dwell on your memory ?

A. About the 16th of May, 1816, Mrs. Browne came to Dublin. She first, as I understood, called, by direction of her husband, at M'Kenna's hotel ; but not finding a comfortable reception there, she put up at Lennon's hotel, in Sackville-street, acting at her own discretion, as he conceived with the full approbation of her husband.

Q. What passed at Rockfield, and explain the incident there, to which you were, as must be fairly concluded, a reluctant but an anxious and attentive witness ?

A. A Mr. Robert Power, and myself visited Mrs. Brown at Lennon's Hotel, in Dublin, on a particular evening. We there met the Defendant Mr. Blake, we remained to very near the hour of 12 o'clock at night, I proposed we should all come away together ; Mr. Browne was not there, Mr. Power and myself took our leave, and I particularly felt much astonished that Mr. Blake remained after us, at so unseasonable an hour, I made some observations to Mr. Power on the incident, but on consulting with each other how to conduct ourselves on the idea of communicating what we could not avoid observing with regret and surprise, to Mr. Browne ; we at length however determined to suppress our feelings on the subject, and avoid imparting the matter to him as we understood that Mr. Blake had made some arrangement to go to France, lest our suspicions might be unfounded and that it would be better to avoid alarm as long as any hope remained that our own fears might possibly originate in causeless anxiety, and that matters were not so desperate as we apprehended, we determined on silence.

On Cross Examination.

The Witness said Mrs. Browne was in her person and manners a *very nice* Woman, sprightly and gay easy and playfull, but innocent in her general deport-

ment; Mr. Browne is represented as some thing near an adept, in the varigated accomplishments of Drinking, Gaming, and Horse Racing. With respect to his amours, he merely seemed a boaster, his conversation often turned in his convivial hours on the relation of extravagant feats in that way.

John Burke the second witness, deposed that he was an habitual Inmate in the house of the Plaintiff, had resided there for two years, at a particular period with little or no intermission. He had formerly some property has still an annuity. In consequence of some law proceedings had a coolness with the Plaintiff, but reconciliation took place, and he became very familiar in his Family and seriously attached to their interest. He knew Mrs. Browne, who had the command of her own Carriage and Horses, to have gone on foot as far as Athenry about two miles from her house at Rockfield on a day remarkably boisterous, it blew hard and rained heavily, and she returned on foot accompanied by the Defendant: On Tuesday the 28th day of January, witness proved that he met Mrs. Browne in the morning on the stair case at her house in Rockfield, in a night dress. She appeared to have had no cloaths but a night cap, her *chemise* and a bed gown which reached only to her middle, knew that the Plaintiff was involved in pecuniary embarrassments, also knew that the Defendant had offered him relief in very pressing exigencies: Witness never knew a more affectionate Husband than the Plaintiff, nor a more amiable woman than his wife until the event which caused their separation. They were as he always conceived from appearances, and from a variety of circumstances which came within his observation, a very happy couple mutually attached and much wrapped up in attention to their Children.

Cross Examined, by Mr. O'Grady.

Q. Did you become in any instance the confidant of Mr. Browne's amorous achievements?

A. No, I never knew he had any secrets of that nature to impart.

Q. Can you possibly be serious? come, you are a facetious Man, a *Bon Vivant*, and probably love your

bottle better than you do a girl, recollect yourself and dont upon this occasion at least forsake the girls. Did the Plaintiff ever communicate to you in the way of frolic or otherwise, any of those gallant achievements with the rural nymphs of Connaught?

A. I shall answer you very precisely: In the first place you are wrong in supposing I prefer a bottle to my girl, for all those who know my habits are convinced of the contrary. In the next place, Mr. Browne so far from communicating to me anecdotes or stories of an amorous tendency, took occasion to assert that since he married he never had illicit commerce with any woman.

Q. What gave rise to this modest assertion of Mr. Brownes. Did you interrogate him on the subject?

A. I believe I did, I asked him respecting a particular Female in the Neighbourhood.

Q. Who was this Female, and what motive had you for putting such questions to him?

A. Her name was Kitty Tierney, and I cannot well assert what motive I had for starting such a subject.

Q. Might there not be some jealousy in question you Connaught Gentlemen are great monopolists of beauty, and notable niggards in the enjoyment of it, however hospitable about the bottle. You did not much relish the idea of a partner in the caresses of frolicksome Kitty. Now, was not jealousy the cause of those enquiries, which brought on you the chaste declarations of your convivial friend?

A. *After a pause, a blush, and a self approving laugh,* there might be a spice of jealousy in it I allow.

Q. How many Kitties, Biddies and pliant Pollies, Sir, could you without resorting to your tablets, guess to be on your own list, exclusive of your random shooting among the *Conies* of your Neighbours *Warren*?

A. Sir were I to enumerate my amours to you, this Trial would last for a month. *The witness appeared to be about the age of sixty years, and further deposed that he never was married,*

Cap. P. J. BURKE examined.—Is an officer in the army; got acquainted with the Plaintiff in the year 1811; left the country for some time the year after, and renewed his intimacy on his return: was at Mr. Browne's house on Saturday, the 25th of January last; accompanied Mr.

Browne that day to Galway, and took Oran Castle, the residence of Mrs. Browne's father, in their way: left behind them at Rockfield, Miss Sally Blake and her younger brother; Mr. Darcy, Mr. Cumming, and Mr. Hughes; they did not return until Monday evening. Mr. Browne appeared to be an extremely affectionate husband; recollects while he was at the house, that he came into his bed-chamber pretty late at night, and complained to him in great distress, that Mrs. Browne was very ill; this was on the night of the 27th of January, on their return from Galway. Witness lay in a two-bedded room: three persons slept in it at the time, Mr. Blake, the Defendant, slept in a single bedded room; all the bed-chambers were on the same landing; the bed-room in which Mr. and Mrs. Browne slept was on the same floor, and directly opposite to that in which witness lay; Mr. Blake's was close between both; witness saw Mrs. Browne on the morning of the 28th of January, going down stairs, very lightly drest, in a short bed-gown and her shift; Mr. Browne was then in his own room, and witness hearing him call out several times, went in to him, and found him much agitated. Witness gave orders to remove the fire arms and other destructive weapons out of the room, considering it dangerous to leave them there in consequence of Mr. Browne's state of mind. Mrs. Browne was sent away the day after. Mr. Browne was very fond of his wife, and she of him, the attachment seemed to be reciprocal; Mrs. B. was a cheerful, gay, and lively woman, extremely handsome and sweet tempered; she bore four children to her husband, and was delivered of a fifth, a boy, since their separation.

This witness was cross-examined by Mr. Burton at very considerable length; but very little was added to his direct evidence; and it varied nothing at all. He admitted that Mr. Browne's morals were rather loose, but by no means grossly licentious; he had told Mr. Browne, the morning he saw him so much agitated, that Mr. Blake had left the house.

ROGER BYRN, Coachman to the Plaintiff, deposed that he was many years in his service in quality of coachman and groom; that he was charged by his mistress, at a time that his master was not at home, to carry a letter to the Defendant, at his house at Brook Lodge, and not to give

it into any hands but his own. This circumstance occurred on the 16th of October, previous to the day his Lady was discovered on the lobby of the staircase, in the night-dress. Witness executed the commands of his mistress as correctly as he could : he brought a letter from Mr. Blake, which he supposed was an answer, under injunctions to deliver it into the hands of Mrs. Browne herself, and not to commit it to the care of any other person. When Witness was approaching the Plaintiff's house, on his return from Brook Lodge, he met one of the servants, a boy named James Silk, who informed him he was sent by his mistress, to tell him not to come towards the house until it was dark, lest his master should see and examine him ; he, Witness met Silk near Athenry, at this side of it, when he delivered the message to him.

JAMES SILK examined.—This boy, an apprenticed servant to Mr. Browne, said, that he remembered very well his mistress sending him to meet Byrne on the occasion stated by the coachman, and her desiring him to tell Byrne not to return to the house until dark.

[Byrne was here recalled, and identified this boy as the same he mentioned in his evidence.]

Cross-examined by Mr. Wallace.

Mr. and Mrs. Browne attended the Curragh meetings constantly ; one Meeting the master remained at home, and the mistress went alone ; they had a cottage or lodge there of their own, and she was then visited by Mr. Blake, and a number of sporting gentlemen. She went regularly to the stables, sometimes three times in the day, to examine the race horses, which she then had at the Curragh, and see that they were properly attended ; there were entire horses among them. Her horses lost that time. Does not know what an execution is, but heard of the master's goods having been seized.

Mary Hinds examined.

Lives as servant with Mr. Browne, remembers Mr. Blake and several other persons being at the house on 27th of January last ; her mistress gave directions to her that night, and bade her have breakfast very early, for Mr. Blake was to hunt the next morning ; remembers that morning, saw her mistress on the lobby in a short bed-

gown and her shift, just opposite to Mr. Blake's bed-room, the door of which was ajar, and Mr. Blake in his shirt looking out ; heard a violent ringing of her master's bell ; soon after saw Mrs. Browne in the parlour, she went to a desk which was also a dressing-case, and which witness is certain was not in the parlour the night before ; that writing desk has been removed, and was never since found.

This witness was now examined to another transaction. She swore, that in the month of August, (she remembered the month, because it was immediately after the Summer Assizes of Galway,) Mr. Blake and a party of gentlemen were on a visit at Mr. Browne's. They all went to hunt except Mr. Blake ; he staid at Rockfield ; and witness saw him go up stairs to the bed room floor, and Mrs. Browne also go up. When witness saw her mistress again, she, (the mistress) was greatly flurried. It struck her, (the witness) as being suspicious, but she did not communicate it to any person.

This servant now deposed to another part of the Plaintiff's case :—She said, that some time after this affair she had just related, which happened in August, and a good deal later in the season, her mistress came in one day with wetted feet, and desired the witness to pull off her (Mrs. Browne's) stockings, and put them to dry at the parlour fire. When they had been taken off, she, (Mrs. Brown) saw the Defendant coming towards the house, and cried out, " Oh, here is Mr Blake !" and ordered the witness to draw on the stockings again, without waiting to have them dried. Mrs. Browne then went to meet Mr. Blake, and witness saw her, through a glass door which led from a green-house to the grand hall, throw her hands round Mr. Blake's neck and kiss him. The reason that she concealed these circumstances, she said, was, that she thought it would be extremely wrong to " go between" man and wife.

Mr. Grady's cross-examination of this witness consumed two hours and a half. Its object was to shew that she was a favourite of Mr. Browne's (with whom she still lives,) and to induce a belief that she had been criminally intimate with him, and therefore was not deserving of

credit. She said she had first lived children's maid in Mr. Browne's family, had subsequently been housemaid, and ultimately employed in personal attendance upon her mistress. She said she was married to Mr. Browne's Steward, and that her mother was his cook; but she firmly and positively denied that any intercourse, or even familiarity, had taken place between her master and herself. She swore positively that he had never kissed her, that she did not travel in his carriage with him, that she came to town with her fellow-servants in the boat, and had not even once spoken to Mr Browne since her arrival. She had seen him certainly, but only in the street, and had not been at his lodgings. She said she was married eight years, loved her husband, and allowed no man but him to be familiar with her. "It is easy," said the witness, "for any woman to protect herself, who chooses and is firmly resolved to do so." In answer to a question whether "Mr. Brown was not fond of a pretty girl," and whether she (witness) was not, or at least was not considered "a very pretty girl?" She answered, "that her master had shewn, when he married his beautiful wife, that he was fond of a pretty girl," but that she herself (witness, had not the reputation of being "a pretty girl." She persisted in assigning the same reason for concealment of the suspicious circumstances she had related, even from her husband and mother, as she had done on her direct examination. She praised Mrs. Browne as a mistress, and said she thought that if her (witness's) suspicions should turn out to have been well-founded, her master would learn the "unhappy circumstance" soon enough. When greatly pressed upon this point, she said, "I would not for riches have told." After Mrs. Browne had left Rockfield, however, she told it to her fellow-servants and others, and to Mr. Power, the attorney for her master in the present Case, and subsequently to Mr. Browne himself, in the parlour, and in presence of his mother. She told it then, she said, because "it was known to the whole country, and because Mr. and Mrs. Browne were separated, and it was plain would never live together again.

The next witness was Honora Brenan. She went to live at Mr. Browne's as servant, in May, 1815, and left it in May, 1816. A few days before her departure she saw Mr. Blake come up stairs to his room and go into

it. She saw Mrs. Browne go into it afterwards : witness then went down stairs, but returned in about 15 or 20 minutes, and saw Mr. Blake come out of his room and go down stairs. Mrs. Browne went to her own room and witness did not see her afterwards that night. This occurred between 11 and 12 o'clock at night.—Mrs. Browne was dressed for the night, except that she had her petticoat on. It was to the Parlour Mr. Blake went, where the Gentlemen were drinking ; witness quitted the service in a few days after this transaction. She returned back in the following October, for three weeks. During the second stay, she went one day into the Drawing-room with bird seeds, which she had been cleaning, and found Mr. Blake and Mrs. Browne sitting at the fire and Mr. Blake kissing her mistress.—The latter spoke angrily and “ impudently ” to witness on this occasion.

Cross-examined by Mr. Wallace.

Notwithstanding the impudent manner in which Mr. Blake spoke on this occasion, witness kept the secret. Her mistress had said nothing abusive when the affair of stair-head-room happened ; she did not see witness that time. Had lived at Mr. Reddington's ; did not know a servant of the name of Tully there. On being pressed upon this point, and asked if she knew *any person* of that name at Mr. R's, the witness paused some time, and at length, said she had known a clerk called Tully there, but denied that she had any improper knowledge of him. Swore positively that she had not been turned out of Mr. Reddington's service in consequence of having been caught in any improper situation with Tully, and that she was never caught in any such situation with him ; he never visited her after she left Mr. Reddington's. Had no intimacy with a person named *Bird* ; no such person visited her ; never was deeply in love with any Serjeant (at law, or) in the army ; was not turned out of Rockfield at the desire of Mr. Blake, but left it herself, and went to her own place ; is a widow ; Mrs. Browne was a good mistress, and recommended witness to two services. When Mr. Blake came, she often was changed in her temper to her husband and servants.

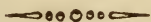
Lewis Cummins was called, but did not appear.—This person is not Mr. Cummin the Painter, to whom reference was made by former witnesses.

D. M'Nevin, Esq. was sworn.—He proved the marriage settlements of Mr. and Mrs. Browne. The Lady's fortune was 5000*l.* but the witness never heard that any part of it had been paid.

Captain GORE deposed that he knew the Plaintiff, and knew him to be much embarrassed, he would have relieved him, not to a very great amount, had he been applied to on his behalf; Plaintiff owes him some money near 600*l.* as well as he can judge, witness was in the habit of making bets at the curragh, has heard that the Defendant had frequently lent him money to extricate him from pressing difficulties.

The Court adjourned until 11 o'clock to-morrow.

SECOND DAY.



THE Court was this day, also, uncommonly crowded, and great difficulty occurred in getting in to hear the Proceedings. Plaintiff's witnesses continued from the adjournment of yesterday.

Manders Blake, Esq. examined by Mr. Lynch.

Deposed that he knew the Plaintiff for several years; recollects that Mrs. Brown, within the last year, brought him a bill for 500*l.* which she entreated of him to procure cash for; it was drawn by a Mr. Donellan, on his father; she made the same request respecting a small bill. He, the witness, would probably have got these bills negotiated, but that the Plaintiff would not agree to the terms. Witness did not apply to Mr. Martin Blake on the subject, but sent the bill back to Mr. Browne. The

bill was first given him in Galway, and was afterwards sent to him from Dublin, but does not recollect the exact time it was sent ; has a perfect recollection of Mr. Blake at the Curragh, where he was on a visit with the Plaintiff and Mrs. Browne, at their lodge, which was a very handsome and commodious one. Witness is a married man, and thinks he never saw a more happy couple than the Plaintiff and his wife appeared at that time to have been ; he spent about ten days on this visit, knew Mr. Blake in Galway, but had never been at his dwelling-house in the country ; Mr. and Mrs. Browne were very much at his house in Galway. Mrs. Browne told him, that her anxiety to get cash for the bill, was to relieve Mr. Browne, as she could not go to Dublin without him.

Here the Plaintiff's Case closed.

SERJEANT JOY opened the Defendant's Case with singular felicity, in a Speech which, at the conclusion, not only drew repeated bursts of applause, but many compliments from the Bench and Bar. He said, in this Case, he was Counsel for the Defendant ; and upon previous occasions, it had often fallen to his lot to palliate crime and deprecate severity of punishment ; but here he had a more pleasing task imposed on him ; he had the good fortune to be exempt. from the painful duty of extenuating guilt, and to engage in the more grateful acts of vindicating innocence, and clear his client's reputation from the foul aspersion of one of the most heinous crimes that could possibly be perpetrated against the well being of Society. It is true, that even on the event of conviction, the Defendant could not, from the law and the nature of the charge, however atrocious in its general consequences, be subject to any species of corporal punishment ; but what to a man of honor and singular feeling is mere formidable degradation of character. This must follow the Charge, unless the Verdict of an enlightened Jury should screen him from indelible disgrace. He therefore entreated a marked attention to the nature and circumstances of the evidence which would be adduced, and to examine well the grounds of accusation, before they should ultimately decide. However, he felt it nearly

superfluous to admonish Gentlemen of their characters in this point; he must, however, say, that he does not come to supplicate mercy at their hands; he only demands what he is confident he shall obtain—Justice. The Character of his Client is at stake, what he values more than life or property. He would implore, Gentlemen, not to pay any regard to either, but solely to protect his honour. The character of the Plaintiff was also involved in the event of this tedious and painful discussion. He would seriously recommend to the Jury, not to omit conferring most deliberately with each other on one peculiar point; and ask themselves, the motive for withdrawing this Case from the discussion of persons best acquainted with the characters of the parties and the circumstances of the transaction, in order to fly for refuge to the arms of strangers. Could not twelve Gentlemen be found in the county of Galway competent to this enquiry, however solemn or arduous the subject may prove? And, if the Jury feel conscious, that the Case could have come, with some propriety, before a Jury of the vicinage, they will doubtless perceive what can easily be inferred from its removal to Dublin.

The Plaintiff asserts, that the Defendant has dishonored his bed: let Gentlemen try this fact first, and then derermine what compensation is due for such an injury to such a man, for the consequences of a crime he was free to avow the enormity of. But let the Jury see the Case through a dispassionate medium; and, for that purpose it will be necessary to avert to many previous circumstances, before the criminal charge shall attract their attention.

The Plaintiff was married in the year 1809, to his present wife; she was at the age of 15 years, and about to return to school, when he made proposals for her, which were accepted; and she in consequence became a wife before she ceased to be a child.

This young woman, in the very opening of the blossom of youth and beauty, had a manner so facinating, that what might in others of her sex be deemed a reprehensible levity, derived from her some inexpressible charm which disarmed suspicion, silenced calumny, and gave, from her importance, to the merest trifles; rendering her an object

of esteem for her innocence and her virtue, as she was of love almost to every beholder for matchless beauty and incomparable graces; confident of herself, she disdained the exterior robe of fastidious and too formal decorum, under which vice too often shrouds itself, and from habits emanating from the native ingenuousness of her disposition and the inward sentiments of her heart; she was enabled ever to check presumption and overcome licentiousness. The seeds of virtue were too deeply implanted in her breast ever to be eradicated; and while she still continues the ornament of her father's house, she is equally the delight and solace of his advancing years.

This is her picture, but faintly sketched with the pencil of truth, which wants no ornament: should the abominable conduct, falsely attributed to her, admit of any proof, she must, unquestionably, be the vilest and most abandoned prostitute that ever walked the streets. Her name-sake and relative, by his testimony, has given a clue to the character of her husband, though his affection or his delicacy would induce him to speak charitably on a point that, if he could, he would probably conceal. He said, he had a tendency to indulge in drunkenness, gambling, and horse-racing. We do not discern spots on the sun when the whole disk is eclipsed, and he was accused, perhaps, from similar motives, of being an overfond husband; to many passing acquaintances he might have seemed so, and might actually have been so in the days of his good fortune; but, in a variety of instances through life, we are too apt to impute to fortune, what should properly be ascribed to folly. He was so incorrigibly and incurably addicted to gambling, that he lost all sense of that decency and that respect for reputation, which is the last thing that a gentleman, however unfortunate, will ever forsake. If the learned Serjeant was properly instructed, he lost the enormous sum of 10,000*l.* at a most vulgar game of chance—it is called *Pitch* and *Toss*: then who can blame fortune for recoiling from the devotions of such a man? Will all his enormities be extenuated, without recurring to his follies or his vices, while calumnies are heaped upon the deserving? His vices might have been accelerated in their habitual action, by misfortunes sufficiently acute under the operations

of his folly apparently to change his very nature, acting, like the influence of fire on the polished marble, which extracts to the surface those stains in the mass, that thotherwise would have escaped discovery, and dwelt in oblivion? He was so fond and affectionate an husband, that his first care was to avail himself of domestic authority, in altering the manners and habits of the amiable and accomplished woman, to whom he was joined? He was dexterous as assiduous, in erasing from her polished mind those sentiments of delicacy with which it was originally stored, and for books of morality, edification or devotion, he caused her to substitute the Racing Calendar, not as a Bagatelle to amuse, a temporary implement of pastime, but as a matter of practical utility incumbent on her to study, in order to become an adept in the names, ages, prices, and properties of every class of horses

The company of her own sex was nearly matter of prohibition in her family while that of man however noisy, vulgar, vociferous, ignorant and polluted, was imposed on her without the choice or the alternative of either her will or any stratagem to avoid them. To races he sent her unprotected, where she met the gay and volatile companions of her husband's looser hours, being generally the visitors so persevering haunting her at home. To palliate conduct so truly culpable, it was urged that her exertions for her husband were indispensable, to avert the consequences of a Sheriff's execution against his property: He would appeal against this futile argument, to any man not bereft of common sense, and ask, is it because there was an execution against his horses, that he would endanger his wives honour and reputation, by putting horses or houses in competition with social and domestic happiness. If he did, know that her prudence or her exertions could stop an execution, why solicit pecuniary favors from young men, who are ever too prompt to confer such favours upon young Ladies. And he would ask is this the description of man, who has the effrontery to come into a Court of Justice to demand compensation for fancied evils, to which he was himself both principal and accessory.

At that time there subsisted no intimacy between the Plaintiff and Defendant, they barely knew each other,

and even a visiting intercourse had scarce commenced but the ingenious contrivances to which the Plaintiff was driven to raise money, on a trying and particular emergency, where first it seems to be exhibited in experiment on his client Mr. Blake, a young man generous in the extreme, of manners highly polished, while endowed by nature, with sensibilities and feelings, from which while he derives honour himself, others in their necessities have often derived benefits. It was determined by the Plaintiff that his wife should make application to Mr. Blake, for some pecuniary loan. It must naturally be presumed, that she did explain to him the circumstances which impelled her to ask such favour: The gentleman instantly complied with her request, and liberally assisted in relieving her from the embarrassment under which she laboured: He did so and with a delicacy peculiar to himself, he retired from the family to avoid subjecting her husband, to the necessity of returning him thanks for a favour conferred at her solicitation, Browne from this specimen of his liberality and refinement immediately saw that he was generous, feeling, noble and humane. The success which attended the Plaintiff's first essay, impelled him to try a second, and he obliged his wife to apply again to him for more money, by a letter written at his instance, and thus did he make this wife a pliant instrument in a dangerous proceeding, from which a woman of but ordinary understanding could not with much safety extricate herself.

He would challenge any man to assert who attended the course of Trial, whether a scintilla of evidence had appeared from which even an opinion might be hazarded and that any species of familiarity, had passed between Mrs. B. and the Defendant, except what fell from two wretched woman, whose testimonies carried with them their own refutation, that facilities had been thrown in the way of Mr. Blake, by the husband is most certain; had he the disposition to make use of them: Blake intended to proceed to France, when he gave intimation of his intentions, it was received by the Plaintiff as matter of surprise, he replied "I am sorry you are about to leave us, you will however at least stop at Dublin for a week, but write to us, as to me, I'm but a bad correspondent,

however, you can write to Teresa, who will be always glad to hear from you." After, the Plaintiff ordered his wife to go to Dublin, to get a bill cashed : he sent her peremptorily, contrary to her remonstrances. He orders her to stop at M^r Kenna's hotel,—he follows her in some short time ; and the first exhibition of his practised profligacy occurred at Lennon's hotel, at the door of which he was found in a state of helpless intoxication, accompanied by a ragged street drab, who pursued him for the hire of her prostituted person. But the series of subjects and narratives of this stamp he was empowered to relate, would only encrease that disgust which the most simple is so capable of exciting. Mr. Blake, after some time returned to the country, and the intimacy between him and Brown was resumed.—Brown possessed some convivial talents ; and, notwithstanding his habitual levities, he could, when he had any object to answer by it, conduct himself with propriety and reserve. He practised his best behaviour in the presence of Blake, before whom he had a view to stand well. Blake, with that sagacity and real good nature which characterises him, made certain observations to Browne respecting a species of conduct towards his wife, in which both affection and decorum were equally wanting. He warned him of the danger of trifling with his wife's affections, or sporting with her feelings. This was the genuine advice, springing from a good heart, with a generous, manly, and disinterested mind. Browne, at least, affected to receive it with thanks ; and, in future, became more guarded. Mrs. Browne, who was informed of the incident, permitted the sense of obligation, which she expressed with ardour, to sink deep into an open, frank, and grateful heart. Respecting the secret and intriguing correspondence imputed to his Client and Mrs. Browne. Nothing, surely, could be more preposterous than to affix mystery and crime to a letter upon subjects of pecuniary business, with part of Browne's approbation, in a letter of his own annexed to his wife's. Would it be requisite to enter more into detail about this Mr. Browne's conduct ?

To sum up all, when he was not deterred by the presence of the Defendant, whose good graces he practised much self-denial to maintain, his manners became disgusting, if not hideous to the last degree : in the presence of his wife, before whom it was also an uniform practice to sing obscene songs : he used to express his wishes to have connexions with particular females. Among the songs of debauchery he was accustomed to sing, was one called the *Plenipotentiary*, well known in the annals of low and vulgar convivialty. He forced his wife, on other occasions, to listen to the first tones an infant child was taught to lisp, being words on the most odious and obscene

subjects ; while other infants were encouraged to expose themselves with correspondent words, looks, and gestures, before their harrassed mother.

But after offering the Lady every insult in his power, how did he speak of her in her absence ? He amused the crew with whom he associated, by expatiating on her merits as a bed-fellow. If a learned friend of his, at the other side, was apprised early of the whole series of these disgusting incidents, he would deem his lips polluted were he to persevere in advocating his Cause, and throw up his Brief, as he had done in many previous occasions, much to his honor. Could it be credited, that this unhappy man could offer to lay a wager in company that he would compel his wife to give any man who took up his bet, ocular proof of her perfections as a bed-fellow !

The lobby scene, on which the Plaintiff's learned advocates have descanted with so much triumph, demands notice. This incredible farrago was also exhibited under sanction of two witnesses. Is it because a gay, lively young woman tells her servant, that a gentleman is preparing to go out to hunt, and have his breakfast prepared for him, that his Client is to have his honor tarnished ? Is there any man so stupid, who shall hear what can be advanced in evidence touching the Plaintiff's habits and character, which he but slightly glanced at, who does not see the facility with which he might entrap his wife, to exhibit innocently on the lobby, while his sentinels were previously posted and drilled to that duty ; which, however, they only maimed and dismembered in the performance ? He trusted that the Jury he had the honor to address, knew themselves too well, understood human nature too well, to require, at this time of day, to have the schemes and intentions of such a man as he has descrided, more clearly developed. They would demonstrate that character in which they stand pledged in that Box, by a Verdict which he anticipates ; they would restore to society a woman, pure as unspotted snow ; they would renew the youth of her aged father, who, though himself was convinced of her innocence, would naturally have the world believe as he does ; they would elevate their depressed children into that station, and upheld them in that rank to which their birth entitles them. He would be bold to exclaim, if there is a man who can refuse it, let him be alienated from society as a foe to every sentiment that shall dignify the nature of man, and a stranger to those sensations that lift him beyond sublunary power.

The Hon. Charles Barry Bingham examined by Mr. Vandeleur,

Said, that he is son to Lord Clanmorris, and well acquainted with the Plaintiff and Defendant. He knew the Plaintiff seven or eight years, and has been in habits of intimacy with him. Witness spent a good while at his house. He became acquainted with Mr and Mrs. Browne shortly after their marriage. Witness lives in the County of Mayo;—Mrs. Browne was very young when first he became acquainted with her;—she was very lively in her manner, but familiar. Witness dined very frequently with the Plaintiff at his own house, when he heard him as frequently talking of his amours;—numbers had been present at these conversations, and several individuals older than himself heard him talk of his gallantries with a particular female in his house, either a House-Maid or Kitchen-Maid, as near as he can recollect, in the presence of his wife. He mentioned a connection with her in the parlour;—he mentioned something about resistance, but does not exactly recollect what. Being further interrogated on this kind of subject, the Witness observed that it was extremely unpleasant to repeat in a public Court language so very revolting, and that he would, if possible, rather avoid it. Being informed that the ends of justice rendered compliance indispensable, and that their own feelings, those of the Bar, suffer very considerably from the necessity of putting these questions: Witness further replied, that he heard the Plaintiff describe his wife's qualities as a bed-fellow in the presence of the Defendant's brother and others. *Here the Jury interposed, and said they did not wish to hear the conversation in detail* To succeeding questions the Witness replied, that on a particular evening the Plaintiff offered to make a bett of 5000 guineas, that in the course of half an hour he would bring his wife into company, and have a husband's connexion with her in their presence. Heard him make other declarations,—in particular, respecting a lady of very high rank, that he would suffer to be hanged, if it would secure him the precious enjoyment of her person. These declarations of his occurred in the presence of his wife. Upon another occasion, he said he would be glad to catch some old rich man in criminal conversation with his wife.

Cross-examined by Mr. Gould.

The Honourable Gentleman farther stated, that the social connexion through which he had an opportunity of hearing this language occurred in the year 1815. The Witness, though very young, was married at the time.

Q. After you had heard these horrible conversations from the Plaintiff did you continue on terms of intimacy with him?

A. I did not entirely break with him; but my intimacy with him afterwards was not so close as it was before.

Q. Had you any decided coolness or difference with him arising from any other cause?

A. We had a quarrel at the races of Loughrea, which a Mr. Blake, the Defendant's brother, and a Mr. Bodkin made up.

Q. Did the conversations to which you allude take place in the presence of the Defendant?

A. No—but I think his brother was generally present.

Q. Do you, Sir, know Miss Blake, the Defendant's sister?

A. I do.

Q. Did she not come from a Nunnery?

A. I have heard so, and believe it.

Q. Did you think the Plaintiff's house a good one to bring a young lady to?

A. I can't say I did.

Q. Mr. Henry Blake, it would appear, was not of your opinion when, by his presence, he sanctioned his sister's visits to this house?

A. Mr. Henry Blake, for ought I knew, might not think the conduct of the Plaintiff altogether so heinous.

Witness further said, that he was very young when his intimacy with the plaintiff commenced, and perceiving no other of his companions had forsaken him from an abhorrence of these conversations, that he was induced, he supposed, not to appear more fastidious than other young men. Does not think, that had such language and conduct been exhibited to him now, he could preserve an intimacy with the person capable of using it. However, the subsequent intimacy between the Plaintiff and him was more in appearance than in reality. He did continue to go to his house and dine there, but not so frequently.

Q. In all the variety of these conversations, I beg leave to ask you, Sir, and I am sure, it is not requisite to make any appeal to your feelings on the score of noble birth. Had I any doubt of you I would exhibit to you in description, to the best of my humble abilities, the dignified shade of your truly noble Grand Father, the late Lord Avonmore, a man whose memory in this country must be held up to public veneration as long as a taste for letters, an ardour for science, a sense of equity, or a sensation of mental feeling lasts—that venerable peer who carried with him to the grave the palm of pre-eminence, which no unhallowed hand has ever dared to tarnish. If I could, Sir, doubt of your principles, I would, if possible, conjure up his ghost, as the pillar of unerring truth to guide and warn his respectable descendant not to forsake that path which led a Grand Sire to rank and glory—a glory which must continue to be

recognised in this country as long as it bears an historical record. I now ask you, Sir, on the oath you have taken, amidst all the occasions to which you have referred, as to the declarations of the Plaintiff in his convivial hours, did you not conceive, and do you not now believe, that he was uniformly *jesting*?

A. I believe he must have been *jesting*. It is scarce possible to think him serious.

Q. Did you tell Mr. Trench, of Rostyn, about the eccentricities of the Plaintiff on these occasions?

A. I believe I did.

Q. Did these conversations occur in any place or situation, to the best of your knowledge, except at convivial hours, after dinner, when the Plaintiff was generally intoxicated as well as all the guests?

A. These conversations generally occurred after dinner, but I did not perceive it a general rule or practice that all the guests got drunk.

Q. I now, Sir, ask you, in addition to the oath you have taken, on the honor of a gentleman, did you ever see a more fond or affectionate husband, to a very fond and amiable wife, than the Plaintiff?

A. He was apparently fond enough of Mrs. Brown.

It further appeared from this gentleman's testimony, that ladies were not prevented by their friends from visiting at the Plaintiff's house. A Mr. Trench brought his wife there, and there were other ladies occasionally as visitors.

Q. If you happened to be an unmarried man, and had the mischance to get into a scrape of this kind, if you were conscious, however, of perfect innocence, would you not be perfectly satisfied with the kind of exculpation likely to arise from such an enquiry?

A. I must say, that I don't comprehend the tendency or object of the question.

Q. You know Mr. Brown, and his propensity to jesting;—young men of lively spirits, and in hours of convivial recreation will jest?

A. That may be, but I never in my life heard jesting to such extent.

Q. Do you know Mr. Rathburn, and did you ever hear any jesting in his house?

A. I know Mr. Rathburn, but never heard any jesting in his house.

The answers of the Witness to subsequent questions on this topic went to prove, that he himself was never much addicted to jesting, or to licentious conversation;—never heard any jesting; if jesting it might be called, carried so far at the Plaintiff's.

Respecting the bett of the 5000 guineas, in which Mrs. Browne's

name was in such indecent and licentious manner introduced;—believes he must have been in jest, as it is not possible to conceive he could expect to have such a bett taken up. Believes that Mr. Trench conceived him in jest.

Thomas Culles, Esq. Barrister. examined by Mr. Grady.

Q. Do you know the Plaintiff, Sir?

A. I do;—and have known him for many years, though not in the habit of associating much with him,

Q. How old do you take him to be?

A. About the age of thirty years

Q. Were you present at any instance of loose conversation, which he used in the presence of his wife, and if you were, mention the particulars.

A. I heard him sing an improper song in her presence;—they were very indelicate words to the tune of a well known licentious song, called *The Plenipotentiary*. But I must say, he slurred over the offensive parts of it, here and there. [*Here it was called out that the Jury had the song—THE DEY OF ALGIERS.*]

Q. Do you recollect whether or not the Plaintiff was drunk when he sung to the Plenipotentiary tune?

A. He was not drunk, certainly.

Q. Inform the Court and Jury of the other instances which came within your knowledge, of the Plaintiff's licentious habits and conversations in the presence of his wife?

A. On a subsequent occasion, I have seen him, in her presence, attempt to display the actions of an entire horse in a state of vigour, and call his wife's attention to his performance.

Q. Pray Sir, do you feel yourself competent to give the Court a specimen of what you saw, in order to judge of the accuracy of the Plaintiff's imitations of a new actor.—(*Loud and reiterated bursts of laughing*)

The witness modestly declined the exhibition, and the Court declined pressing it.

The other instance the Witness mentioned, was, seeing the Plaintiff asleep in the room, rather in undress, when he awoke he said, he was going to *****.—*Here he used the name of his wife, applying language certainly not fit for the public ear or eye, and rather expressive of bestiality, leaving his former feats and declarations in this way, comparatively a tissue of modesty.* Witness stated, that the Defendant and his brother were present.

The latter circumstance came out in the course of cross-examination by Mr. O'CONNELL, to whom he also stated, that he was Counsel and friend to the Defendant. He took a profes-

sional part in looking over the Agents instructions, and inserting certain observations respecting the proofs. He went to the Agent's Office on the business, which he acknowledged was not usual with Counsel. Dined perhaps five or six times with the Agent, Mr. Galway, who, as yet has not tendered him his fee. The song occurred about the 1st of September last. The next exhibition of the Plaintiff in the character of an entire horse, was going about in the presence of several ladies *neighing* like one. Mrs. Hunt, aunt to Mrs. Brown, was of the party, two Miss Russels, cousins to the Witness were there. The Defendant was present, but Miss Blake was not of this party. The Defendant's brother was in the house. Mr. Hughes is the name of the Defendant's domestic Chaplain. Mr. Mark Darcy and his wife might have been present at the neighing scene. The Plaintiff was not knocked down. Witness further stated, respecting the manners &c. of Mrs. Brown, that she was handsome, young, amiable, and accomplished, and considered the Plaintiff, abstracted from his licentious practices, a very affectionate husband.

Dr. Shadwell examined by Mr. Wallace.

Q. You are I believe Sir a Physician, and in habits of attending professionally the Plaintiff's Family at Rockfield? How long have you been in these habits?

A. Since the year after the marriage of Mr. and Mrs. Browne.

Q. You are probably well acquainted with the parties, and qualified I dare say to give a very correct opinion respecting the temper, person, and manners, of Mrs. Browne?

A. I have known her a good deal, and think her a very amiable young woman, playfull and lively but perfectly innocent, as well as easy in her manners.

Q. During your visits to this family have you had occasion to observe whether or not they were much frequented by female visitors?

A. I have not seen much female society there, but occasionally a great many male visitors.

Q. Do you not imagine that the prevailing manners at Rockfield might be less feminine or cautious on that account?

A. It is probable.

Q. Have you slept at Rockfield often?

A. I have frequently slept there, and for some continued time.

Q. Have you known it a practice with Mrs. Browne, to call at the room of her guests or visitors on mornings immediately after rising; or, has she ever called at your room door when sleeping at the house?

A. I can't say she ever made a practice of calling in the manner you describe; but I have known her I think once to have called at the door of the room where I slept, merely to hurry me down to breakfast.

Q. Have you known any instance of licentious manners, or indelicate proceedings from the Plaintiff towards his wife at any of your visits to the family?

A. I recollect once he attempted to train an infant daughter to use expressions arising from the transposition of a letter in my name, which I deem indelicate.

Q. Do you recollect any other instance?

A. At another time he asked the child, and instructed her to answer to the question are you not a good piece, or a d—d good piece, which caused Mrs. B. to put her hand on the child's mouth, and myself to observe that it was rather an indelicate manner in which to educate a female child.

Q. When did you see Mr. B.?

A. About the latter end of May last.

Cross-examined by Mr. Everard.

Witness said that he attended upon various occasions at Rockfield, when Mrs. Browne and her children were unwell, Mrs. Browne's mother sometimes visited there. He attended Mrs. B. on the necessary occasions, as her *accoucheur*, had no conversation with the Lady, when she called at his door had many opportunities of observing Mr. Brownes conduct towards his wife, and could never perceive any part of it, which indicated coldness or inattention to her; can not say that he recollects Plaintiff sitting up on any night to attend his wife during illness; Mrs. B. was delivered of a son on the 29th or 30th of May: He is her only son.

Several pieces of evidence in the shape of letters were produced to illustrate the harmless tenor of the correspondence between Mrs B. and the Defendant, being chiefly on circumstances of money dealings; In one of Mrs. Browne's letters to the Defendant, there was a note from Mr. Browne—

Richard Rathburn, Esq. examined by Mr. Crampton.

Deposed, that he recollects Plaintiff and his wife dining, about three years ago, at a party; that the general tone and style of the Plaintiff's conversation was rather light; he uttered expressions too gross and indelicate for the hearing of any polite or correct society—spoke of his gallantries in a private conversation, among four or five intimate friends.—

One of the anecdotes Plaintiff told him was, that at one time when going for his wife to her father's, he brought with him in the carriage a female servant of Mrs. Browne's; that directing his coachman, whom he called *Trusty Riger*, to drive slow, he had a criminal connexion with this woman; did not recollect any other conversation of that tendency — Being asked his opinion of Mrs Browne, he replied, he thought her one of the most artless and innocent young women he ever saw; met her at the races of *West-Port* — never saw any instance of innocent familiarities that in women of a more reserved character would be deemed reprehensible. Had hunting parties frequently, about 27th January last — Defendant was to have been of these parties, but did not come.

A letter was alluded to as a piece of evidence which had no date. Another letter, written in November last, before alluded to, was the joint production of the Plaintiff and his wife.

The last Witness, being cross-examined by Mr. Walsh.

Said, that he knew the Hon. Mr. Bingham, and heard his evidence; never heard him, in private or public, make any comments similar to those he imputed to the Plaintiff.

Q. Did you ever hear Mr. Bingham talk of his present wife?

A. I heard him talk in her praise, very much, before he married; but don't recollect having, on any occasion, heard him talk of her since.

Q. What opinions could you form of the Plaintiff respecting his affections for his wife?

A. I always considered him an indulgent and affectionate husband; his misfortunes might have caused an alteration in his manners and habits.

Charles Lyons, Esq. examined by Mr. North.

Q. Are you acquainted with the Plaintiff and Defendant, and mention, if you are, the circumstances of your intercourse with them?

A. I am acquainted with these parties: I remember some time since, going to Clifden, in the county of Galway, to Mr. Mark D'Arcey's; these gentlemen were of the party, with many others. I recollect a frolick of the Plaintiff's, which was an imaginary case of infidelity in a married woman, and a trial of *Crim. Con.* to ensue: He was to play the part of the Injured Husband's Advocate.

Q. Which was the performance, of the ludicrous or pathetic cast?

A. It had a mixture of both.

Q. Very like.

“ *Omne tulit punctum qui miscuit utile dulci.*”

Have you ever heard the Plaintiff change from the bar to the stage, and recite parts of plays?

A. I heard him spout from the play of the Fair Penitent.

Q. Do you remember his manner and action in the part of Lothario, commencing with the line,—

“ *The moment sure was lucky.*”

Did he not play it with particular animation?

A. He appeared, to my judgment, very happy in the part.

Q. Now, let us trace him from the professions of Advocate and Player, and give us your opinion of his manners as a gentleman, particularly in the presence of his wife?

A. His conversation before her was not always decent; I have heard him sing the first verse of the song called the *Plenipotentiary*.

Q. Do you recollect any other instance of his conjugal respect in that line; and his parental anxiety for the education of his daughter?

A. I remember him asking the child, whether she would not prove a capital piece?

Q. Were these observations made in the presence of Mrs. Browne?

A. They were.

Cross-examined by Mr. Phillips.

Q. Who were present when the Plaintiff played the part of the advocate, in the farce of *Crim. Con.*

A. Mr. D'Arcey and his sister, with a very large party of ladies and gentlemen.

Q. Name the principal ladies?

A. There were Mrs. Hunt, the Misses Russel, Miss Lynchs—

Q. Was the Defendant present?

A. Yes—also a Mr. Culles.

Q. What—had he the impudence to act the Advocate and Mr. Culles present.—Was there a Judge?

A. No;—there was neither Judge or Witness.

Q. Were you much in the habit of visiting Mrs. Brown, and can you form an opinion, whether or not, he was a fond, attached, affectionate husband?

A. I never saw, or could suspect any thing to the contrary.

Q, You said you heard him sing the first verse of *The Plenipotentiary*—did he slur over *The Dey of Algiers*?

Court,—I find I must interpose and declare, that I will not have this Court made the scene of such indelicacy and abomination. There are some things too true to be put in a ballad.

Mich, Tully examined by Mr. Grady.

Witness said he now lives in Dublin, but had known Honora Brennan, a former witness, at Mr. Reddington's in the County of Galway.

Court.—Don't examine too narrowly *Tully's Offices*. (*General applause,*) He knew her since.

Q. From your knowledge of her, from what you have heard and believe respecting her general character, conduct, and demeanour, do you consider her a person worthy of credit on her oath?

A. I do not.

It appeared that this Witness was in some clerk-like employment at Mr. Reddington's. He swore that he was in the habit of dining in the house-keeper's room, and with great apparent reluctance, afterwards acknowledged, that he dined in the kitchen, with the inferior servants.

The letters alluded to in a former part of this Report were again adverted to, and given in to the Register to be read in evidence.

An argument was raised among the Gentlemen of the Bar, respecting the separate letters of the Plaintiff and his wife, which called upon the Court to state settled points of Law, &c. that letters from the wife cannot be adduced in prejudice to the husband.

Mr. WALLACE—But, my Lord, as in this case, if the husband will recognise the letters of the wife, I hope your Lordship will see that the production of letters, sanctioned by himself cannot operate to his prejudice.

The letters were upon frivolous subjects—one from Mrs. Browne to Defendant, returning thanks for a present of fruit; it was a short note without much meaning. A letter from the Plaintiff to the Defendant, dated from Long's hotel, Bond-st. London, states, That he saw a letter which the Defendant wrote to Teresa, (meaning his wife.)

It was adduced as evidence, to shew, that the Plaintiff did not disapprove of the correspondence between the Defendant and his wife. The subject of the letter, irrelevant to the case, and in no respect interesting to our Readers, except to illustrate a point on which Serjeant Joy dwelt, to refute the idea, that a criminal correspondence, the traces of which the Lady was

industrious to destroy, had existed between the Plaintiff's wife and the Defendant.

Evidence for the Defendant closed.

Mr. GOULD spoke to evidence in a very animated oration, marked with his usual indications of warm feelings and sympathetic emotions: he prefaced his address to the Court and Jury by a very sanguine eulogium, on the able statement of Serjeant Joy, which he did not scruple to pronounce; as to methodical arrangement of his matter, a clear and perspicuous style, much ingenious argument, great address, and a copious flow of elegant diction, one of the finest pieces of forensic elocution that the annals of the Courts, either here or at Westminster Hall, had ever recorded. He took a minute survey of the preceding evidence, with a zeal and ability so natural to him, yet so marked with superiority in comparison to many of his preceding efforts, that perhaps it might become a subject of public regret, that, notwithstanding the marked complaisance with which the High Sheriffs of the city of Dublin had laboured to procure us accommodation, we are still, most reluctantly, compelled to confine ourselves to a very concise and inadequate Report, curtailing its principal beauties, the moral references so frequently interspersed, and though arising spontaneously from each division of the subject, happily calculated to relieve the tedium of recited facts as they arose in the course of animadversion, in the substance of what fell from the witnesses on both sides.

He said, that in this very novel and extraordinary Case, he rose to address the Court and Jury under circumstances of more than ordinary embarrassment. From this embarrassment, however, he might, in the progress of a few observations, procure relief on the fair, simple, and unsophisticated view; he would, to the utmost of his poor abilities, advance, for the consideration of the Jury. His learned friend, to whom he had so recently alluded, spent a great portion of detail, resulting from those finer qualities of the mind, which the world attributes to him, in dilating on the enormities of an unfortunate man, whose greatest misery resulted from the fond and affectionate feelings of a premature dotard in favour of a woman, who once, perhaps, might have deserved a portion of the hyperbolical praise bestowed on her, were she not debased, perverted, and polluted by the person against whom, on the authority of evidence, already within contemplation of the Jury, there stands, however, elegant, and imposing sophistry might artfully disguise it, glaring, prominent, and, if he might say, illuminated proofs of audacious guilt. But the eloquent and

learned friend who opened the Case, had thrown such lustre upon the moral evils with which the example is fraught, coming as it does from characters of rank and pre-eminence, with respect to birth and habitual fortune from early antiquity, that his own humble senses would prove bewildered, were it not for the aid of presumed facts triumphantly advanced from the other side, to sustain which, a scintilla of evidence has not been advanced. He would take leave to advert to the formidable accusation of the eloquent Pleader who opened the defence, acting upon instructions, as, he must presume, he has done, according to the uniform correctness of his practice, who, to blacken the character of an harrassed, perhaps foolish, but certainly a man, not callous to the domestic felicities of connubial life; and, in the midst of wild and foolish eccentricities, having their origin in a neglected education, rather than in a depraved heart, honorably seeks, for the loss of conjugal comforts, which from the uniform tenor of all parties, in exhibiting their evidence, he was still a good and affectionate husband to an amiable woman, whose superior merits he knew how to appreciate. What greater proof could he give of implicit confidence in her, than to trust to her discretion and management, those prudent plans, to extricate his family from embarrassments doubly galling, because no ways expected.

The ingenuity of the learned Gentlemen would draw from this Lady's merits at a particular period of her life, an inference of consummate virtue in the breast of his client, from whose black artifices, under the mask of friendship, the inference of turpitude beyond any conception, a mind the most astute in enquiry with respect to any transactions, at least in this country could not from any precedent form a parrallel.

The more resplendent this ill-fated woman's virtues, and endowments might once have shown, the stronger are the marks of baseness in the man who would by diabolical artifices, premeditated and long in deliberate contemplation have insidiously subverted them. To come to the learned serjeants first stage of ideal aspersion against the Plaintiff, to prove him an unworthy person, who has no claim to compensation for the loss of those consolations, he has sought in the society and sympathies of an amiable wife on whom he doated. He tells you that he was such a practised gambler so incurably devoted to irredeemable ruin, with respect to fortune, principle, and character, that he lost 10,000*l.* in the low and abandoned game of *Pitch and Toss*. The Gentlemen whom he addressed selected assiduously from the mass of the most respectable citizens, dignified in character, eminent for their unspotted lives in all the decorous relations of society, as fathers, friends, and husbands

but in the principles which govern them, in exercising their respective duties in these dear and honourable relations of life, he would entreat them most solemnly to pause ere they would permit themselves to admit assertion in the place of proof to influence their determination. Did the learned serjeant with his intelligent *confreres* venture to adduce any proof of a transaction, which if proved could not fail to lessen the claims of a man in whose favour their existed from the uniform tenor of the Defendants own witness, arguments the most irrefragable, and convincing that he was exemplary in affectionate attachments to an amiable wife, whom he tenderly loved.

Gentlemen would easily conceive the alluded to the stigma with which his client was branded, of having lost £10,000 at the vulgar game of *Pitch and Toss*; did the zealous and learned advocates even attempt any species of sophistry or equivocation to advance a scintilla of proof to support this audacious assertion. It is not in human nature, however awful and unerring in her abstract and ambiguous operations, when we come to a practical life, to brand misfortunes with all the horrid features of crime, and by a kind of perverse and inscrutable malignity, to avoid tracing effects to their appropriate causes, and admit the blasts of capricious calumny as arguments irrefragable; and that because a man is unhappy, he must be base. He would ask, were these wise accusers a whit more fortunate in the assertion of his client's drunken feat with the street-walking harlot at the threshold of Lennon's hotel, terrifying and traducing him for the wages of their mutual iniquity. Did they presume to advance any proof of this transaction? Then what becomes of two, out of numbers which would constitute the strongest and most undeniable arguments of their cause? Both were lost because they amounted to nothing more than *assertion*, naked and imbecile, without the concomitant prop of proof. Driven from what they conceived their strong hold of ideal accusation, gentlemen would determine if they are more fortunate in stratagems of another, but less tenable cast. They tell you that with respect to proof of adultery, palpable and demonstrable proof of the fact is indispensably requisite; but the learned Lord who presides, will tell the Jury, that circumstantial evidence is decidedly strong in law, when no better proof can be advanced. Then it his Lordship's opinion in support of the known laws of the land, has with the Jury the weight to which it is so fairly entitled, and which it so generally receives, he would implore heaven to guide him in that spirit of candor with which he has most particularly weighed all the circumstances of this case, as he hoped for divine mercy at the awful day of trial himself. He felt that any species of artifice, or sophistry to

attract their verdict, would be not only an insult on their understandings, but a most palpable deviation from those principles of integrity, from which in this obvious case, it would be the worst of policy, and the most wanton deviation from common sense, as well as rectitude to depart.—He therefore must make no merit of an act of spurning at all sinister artifice, in the attempt to make (what is exclusively necessary,) an honest appeal to the tried judgements and acknowledged integrity of the gentlemen whom he had the good fortune to address, while he endeavoured from the sources of his learned opponents, to refute them exclusively on the positions which they themselves have advanced. He took leave to advert to three points, already which he fondly hoped he has despatched with effect though with humility,—he would call gentlemen's attention to the first witness produced, the cousin of the Plaintiff, a man bred in liberal life, of decorous manners, and of integrity, against whom no kind of impeachment has been urged. Mr. Andrew Brown, gave the court a fair and circumstantial detail of matters, from which the Jury would be enabled to discriminate as to the conduct of the Plaintiff under the opposite circumstances of prosperity and adversity.—He deposed, that in May 1816, the wretched Plaintiff, from a series of unexpected embarrassments he became what is commonly called a Sunday-man, unable on week-days to shew himself, or attend to his ordinary business; that so great was his confidence in Mrs. Brown, that he deputed her as his agent to transact some pecuniary affairs, consequent on the burdens which were accumulating on him,—she came to Dublin, by his advice and lodged at Lennon's hotel. It is in proof that pursuant to her husband's commands, she first stopped at M'Kenna's hotel, where she could not be accommodated,—it is also a proof, that the Defendant affected to have occasion to go to France, a country which since that period he never attempted to approach.—In two days after, this shallow pretence the Jury would bear in mind, what was solemnly sworn to have taken place at Rockfield,—they would travel from thence with the first witness (a very cool, rational, and unexceptionable gentleman,) to Lennon's hotel, in Dublin. They would carry their imaginations on the wings of strong and uncontrovertible facts, such as Mr. Robert Power, and this witness on an evenings visit to Mrs. Brown, at Lennon's hotel, in Sackville-street, where they saw the Defendant her sole protector: The friends staid until a late hour, near 12 o'clock, at night, and on the proposal of Mr. Andrew Brown, to take their leave, and depart; the Defendant remained notwithstanding, at that ominous and awful time, when Bats and Screech-owls, in concert with their brethren they nightly watch, give solemn warning from natures dictates to violate no precept of natures laws; one of the first

of which rendered still more sacred by divine command, is "*Thou shalt not commit Adultry*" Will the Jury recoil from this damning *circumstantial* event, strong comparatively as ocular proof, nay, still stronger than any physical demonstration of the corporal senses, liable to be vitiated by accident or disease Did the Defendant yield to this rational, friendly and good natural remonstrance, though given perhaps in a monosyllable—did he take the warning offered him, like the generous, warm hearted, humane and stoical being, travelling under cover of his domestic chaplain, represented in glowing description by the learned Serjeant in his luminous oration; wherein he immortalizes the Defendant, if the jury shall believe him, when with the light of charity and disinterested feeling, he prowls thro' obscure alleys, and crannies, seeking whom to relieve with one eye and whom to devour with its fellow optic.

Will the Jury believe this is the strong featured disciple of modern chivalry, opening his purse to beauty in distress, and with a *delicacy peculiar to himself*, waiting to admonish at 12 at night, the object of his former and disinterested benevolence. Was this his conduct when in defiance to all sense of decency, and actuated solely by the diabolical instance of a brutal passion, he not only meditates the protracted punishment of her inevitable ruin, in the consequent disgrace of her numerous family, and herself; but lest the premeditated destruction should not be proclaimed, makes a silent cruel and ostentatious, display of the complicated havock he was about to inflict; for what besides could he contemplate in a silent resistance, to the invitation given to him by the husbands relative, who might have a colour of propriety to remain with the lady, when no pretext could serve to excuse the conduct he was pursuing the evidence of Mr. John Burke.

Notwithstanding the amorous propensities he avowed, under the imbelicities of his grand ciemactric, and the pleasantries with which another learned friend Mr. Grady, treated his trembling dotage, was certainly not to be rejected, because no inconsistency appeared in his testimony, and nothing had been advanced at the opposite side to depreciate his character, or cast diffidence on his principles, giving no more than its due weight to the testimony of this witness and combining it with the narrative of the decoras gentleman, who preceded him. In the name of heaven, he exclaimed, what inference could any man draw but that of friendship betrayed, innocence seduced, the laws of hospitality violated, the happiness of a fellow being irrecoverably prostrated, the commands of the

Almighty most blasphemously outraged, the bands of society torn asunder, and all its amiable and endearing courtesies, with a gothic barbarity reduced to stages below a gothic state; and all that by the single act of converting a friend into a victim, through the mechanical operation of that all destructive engine gold. By means of a superabundant quantity of this material, has the deponent been able to gain ascendancy over a gentleman whose indiscretions perhaps the greatest, that of yielding to fashion in a part of the kingdom, peculiarity, hospitable and proverbialty, gallant and gay: He would repeat whose indiscretions had driven him into misfortunes, that in the estimation of a benefactor *generous feeling enlightened and humane*, he would echo the words of the learned serjeant, because better can not be found, but as to the correctness of the application, he must submit them to the candid critics in the gallery, whom he had the honour of addressing. His feelings he would confess on this distressing theme, from the croud of ideas pouring on his mind, and the variety of conflicting sensations with which his mind is assailed, render him but as feeble and emaciated opponent of the eloquent pleader who opened the Defendants Case.

Mr. GOULD used a warmth and energy which can only be conceived by those who have heard and admired him, proceeded to recapitulate the testimonies of the several witnesses, with observations on last stage of evidence, which caused the auditors during the delivery sometimes, and that frequently to think the worse for the better part. He was very happy in his comments on the testimony of Capt Burke, "who met death in various shapes, and under all its terrors, from the triumphs of the Peninsula to the new world," and came home displaying the magnificence of the honors he acquired in the modest diffident and retiring humility of the consummate Soldier.

He appealed to the experience of his Lordship, who had ever enjoyed the very best company, and had most conspicuously profitted by his advantages, if ever he knew a consummate Soldier who was not a consummate Gentleman. Mr. Gould wound up the peroration of a most capital Speech, amidst those universal plaudits which had accompanied the eloquent essays of his predecessors; each, however, escaping the species of theatrical tumult which the effervescence of feeling sometimes creates; but from which the dignified affability, genuine good nature, and truly polite manners of the Chief must for ever keep this Court sacred. Such is ever the influence of a good mind, through its unremitting collision with kind persevering and conciliating habits,

LORD NORBURY charged the Jury at some length. His Lordship took a view of each testimony, the particulars of which we have detailed in their formal progress; and by a faint

sketch of the elaborate commentaries of Mr. Goold, with whom his Lordship seemed to agree in the inference drawn from the propensities attributed in conversation, and otherwise, of the Plaintiff, highly aggravated, he would confess, by the inexcusable, if not savage species of humour, of venting his eccentricities before his wife and other ladies; but this his Lordship attributed to the misfortune of a neglected education, and perhaps the influence of bad example. There was no proof in his mind strong enough to warrant any man in saying, that he was a brutal, tyrannical, or a capricious husband, who valued not his honor, and was insensible to domestic enjoyment, or felt not the affections of an husband. On the contrary, witnesses on both sides concurred in proving, that he was a most fond, affectionate, and endearing husband to a once amiable woman, whose value he knew; that he had the feelings of a man of his description has been incontrovertibly proved by one of the most respectable witnesses who appeared on the table, Capt. Burke, who saw him in such agony of mind, on hearing the misconduct of his wife opened to him; that the witness judiciously gave orders to remove every implement from his apartment by which it was possible he could inflict any species of injury on himself. Though he would not advise very ample damages to an improvident and careless person of his cast, of whose misfortunes he alone was the author; yet, he saw no cause to deprive him of compensation, in some degree, for the loss of these domestic comforts, though, of which he certainly did not make the most prudent use, he was far from being insensible of their enjoyments. His Lordship remembered a Case, which a truly great man, whose memory he in particular revered, the late Lord Avenmore, because he knew him well. That enlightened Judge said, that the adulterer, in any Case, ought to be punished by inflicting damages. Notwithstanding the very high opinion he had for the noble Lord's judgment, here he essentially differed from him; maintaining, that the husband who connives at his own disgrace, or who, from his domestic conduct, shews himself insensible to the value of conjugal affections, should have no compensation; because, it would be impossible to estimate a loss he did not sustain. His Lordship, however, recommended to the Jury to consult their own judgments, and not to leave their minds susceptible to any strong impressions from his opinions; perfectly assured of their good intentions, he would receive any Verdict they give without implicated censure or dissatisfaction, and most probably with approbation.

The Jury retired; and, in about twenty minutes, returned a Verdict in favor of the Defendant.

The very pressing demand on us for this Edition, obliges us to publish it without that strict attention to literal correctness; but shall be sedulously paid attention to in our next.



